

May 25,1999

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
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DECISION ON APPEALS OF THRESHOLD DETERMINATION OF NON-SIGNIFICANCE  
AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L96P0007**  
Proposed Ordinance No. **98-411**

**CEDAR COVE**

Preliminary Plat Application and  
Appeals of Threshold Determination

Location: East of 235<sup>th</sup> Avenue Southeast, approximately 250 feet north of Southeast 16<sup>th</sup> Place and  
south of Southeast 12<sup>th</sup> Street (if extended)

Applicants: **John and Claire Lein**, *represented by* **Robert Johns, Esq.**  
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Appellants: **Scott Hamilton** **Craig N. Dickison**  
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DDES: DDES/Land Use Services Division, *represented by*  
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Intervenor: King County Department of Transportation, *represented by*

|                                  |              |                                  |
|----------------------------------|--------------|----------------------------------|
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#### SUMMARY OF RECOMMENDATIONS AND DECISIONS.

|  |   |
|--|---|
| Department's Preliminary Recommendation: | Deny appeals and approve preliminary plat, subject to conditions            |
| Department's Final Recommendation:       | Deny appeals and approve preliminary plat, subject to conditions (modified) |
| Examiner's Decision:                     | Deny appeals and approve preliminary plat, subject to conditions (modified) |

#### PRELIMINARY MATTERS:

|  |                                  |
|--|----------------------------------|
| Application or petition submitted:         | March 8, 1996                    |
| Complete application:                      | March 8, 1996                    |
| Notices of appeal received by Examiner:    | July 10, 1998, and July 20, 1998 |
| Statements of appeal received by Examiner: | July 10, 1998, and July 20, 1998 |

#### EXAMINER PROCEEDINGS:

|  |   |
|--|---|
| Pre-Hearing Conference:                | August 3, 1998  |
| Hearing on Motion to Compel Discovery: | September 28, 1998                                      |
| Hearing Opened:                        | November 30, 1998                                       |
| Hearing Closed:                        | April 29, 1999 (pursuant to administrative continuance) |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

#### ISSUES/TOPICS ADDRESSED:

- Traffic concurrency
- Zoning Code interpretation
- Density
- Traffic circulation
- Road standards
- Wetlands
- Wildlife habitat
- Surface water drainage
- Examiner's jurisdiction

**SUMMARY:**

Appeals of MDNS denied and preliminary plat of 57 lots on 19.5 acres approved.

**EXAMINER'S OPINION:**

The first dispute concerning this application and its impacts is over the credibility of the King County Department of Transportation's model for assessing traffic concurrency, and the validity and appropriateness of the data which was used to make the determination of concurrency for Cedar Cove. Most of the other issues raised in this proceeding are related directly or indirectly to the proposed density of development, including effects on traffic circulation, traffic safety and congestion, surface water run-off, sensitive areas, and wildlife. Other issues are the legality of any subdivision of this property, and the proper application of King County's Road Standards.

The certificate of transportation concurrency issued by the King County Department of Transportation ("KCDOT") to the Applicant on September 14, 1995, appears to have been issued in error. However, issuance of the certificate was not appealed to the Hearing Examiner. That certificate, and its renewal on November 28, 1995, enabled the Applicant to file this application for preliminary plat approval on March 8, 1996. The Examiner does not have the authority in this proceeding (commenced approximately three years later) to return the parties to the positions they would have occupied in 1995 if KCDOT had denied the application for a certificate of traffic concurrency. The only effect which that 1995 error should have in this proceeding is to eliminate the presumption of traffic concurrency, which the code normally provides. But even in the absence of that presumption, the preponderance of the evidence is that the proposed development does now meet the King County standards for traffic concurrency which were in effect on the date of the application for preliminary plat approval.

The State of Washington Growth Management Act ("GMA") has been implemented in King County by the 1994 Comprehensive Plan, and by subsequently adopted or confirmed development regulations. These include minimum and maximum density standards, sensitive area requirements, traffic impact mitigation provisions, road standards, and surface water drainage controls. Except in unusual circumstances, these regulations are deemed to provide adequate mitigation of the environmental impacts of development in urban areas. The underlying policy of the GMA, and of the County's implementing plan and regulations, is to concentrate development in locally identified "Urban Growth Areas", where adequate services can be provided, and to restrict growth in the rural areas. The subject property is within the urban growth area. Its development at an urban density is called for by the County's Plan and development regulations. These premises provide the starting point for review of this subdivision application. Only if specific constraints on development of the site are found to exist, or standards for concurrency or other regulations are not met, should development be limited, delayed, or prohibited. The Hearing Examiner should be wary of imposing limitations, delays or prohibitions upon the subdivision of land unless clearly required by adopted regulations, so that State and County legislative actions are not thwarted by the preferences of administrators, neighbors, or others, no matter how well advocated or reasonable those preferences may be.

Action on an application for preliminary plat approval is governed by laws and by ordinances which have implemented a decision-making process in King County which is intended to be hierarchical, non-duplicative, and efficient. The Hearing Examiner has defined responsibilities, and is limited by a long established principle of administrative law to exercising jurisdiction only to the extent it is expressly granted or necessarily implied.

Also, certain presumptions of validity and correctness attach to the administrative actions and

recommendations which are reviewed in this proceeding. The SEPA Threshold Determination of Environmental Nonsignificance (Mitigated), is accorded substantial weight by statute. And, the findings and recommendations of those agencies charged with administration of the various regulatory ordinances in issue should be afforded deference, if, when all the evidence is weighed, that evidence which supports and that which contradicts an agency recommendation is approximately equal.

Following a review of all the evidence, it is clear that reasonable persons could (and they certainly do) disagree about the appropriate density of development of this property, and the impacts of the proposed development upon the environment. There is reasonable disagreement whether a road should be extended north, to connect with Southeast 8<sup>th</sup> Street; whether drainage controls can be implemented to avoid exacerbating existing flooding; and whether significant impacts to the Class 2 Wetland and wildlife habitat will occur. However, the evidence presented was not sufficient for me to find and conclude, with definite and firm conviction, that a mistake was made by the responsible official in issuing the threshold determination of non-significance. To the contrary, I find from the preponderance of the evidence, given the County decisions already made, the development regulations which must be followed in implementing this project, and the conditions for final plat approval proposed by DDES, that there will not be a probable significant adverse impact upon the environment from this proposal. It is my further opinion that this subdivision can be developed in a manner consistent with applicable laws and regulations, and that its approval is in the public interest as determined by State and County legislative actions.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

**General Information**

- |                            |   |
|----------------------------|---|
| 1. Owner/Developer:        | John and Claire Lein<br>22845 NE 8th Apt. 352<br>Redmond, WA 98053  |
| Engineer:                  | Doneshvar & Associates<br>11200 Kirkland Way Suite 320<br>Kirkland, WA 98033  |
| Location:                  | East of 235 <sup>th</sup> Avenue Southeast, approximately 250 feet north of Southeast 16 <sup>th</sup> Place, and south of Southeast 12 <sup>th</sup> Street (if all were extended) |
| STR:                       | 3-24-6  |
| Zoning:                    | R-4 (Urban Residential, 4 units per acre)   |
| Acreage:                   | 19.50 acres   |
| Density:                   | 2.97 units per acre   |
| Typical Lot Size:          | 5,200 to 12,000 square feet   |
| Proposed Use:              | Single-family detached dwellings  |
| Sewage Disposal:           | Samamish Plateau Water & Sewer District   |
| Water Supply:              | Samamish Plateau Water & Sewer District   |
| Fire District:             | KC No. 10   |
| School District:           | Issaquah School District No. 411  |
| Complete Application Date: | March 8, 1996   |

2. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the September 28, 1998, public hearing are found to be correct and are incorporated herein by this reference. The said report is Exhibit No. 3 in this proceeding.
3. Any findings set forth in the preceding "Opinion" and in the following "Conclusions" are included in these findings as if fully set forth.

### **Transportation Concurrency**

4. The certificate of transportation concurrency issued for the subject property on September 14, 1995, was issued in error. The certificate issued on that date relied, in part, upon inclusion in the committed road network of full improvements to 228<sup>th</sup> Avenue Southeast, from the Issaquah-Pine Lake Road to Inglewood Hill Road (Capital Improvement Program Project No. 200295). Project 200299 was considered by KCDOT, during its review of the 1995 application for a certificate of concurrency, to provide for widening the existing two lane road to five lanes, with left turn channelization and extensive frontage improvements, consistent with current King County Road Standards for a principal arterial. In fact, the 1995 six year Capital Improvement Program ("CIP") included funding for only minor safety improvements to this section of 228<sup>th</sup> Avenue, not the full widening previously contemplated, and which was subsequently re-instated in the 1996 and succeeding CIPs. In the absence of widening 228<sup>th</sup> Avenue Southeast, the transportation adequacy measure (TAM) score for the proposed plat of Cedar Cove (then known as "English Cove") would have exceeded the zone threshold of 0.79, which was then in effect for the area within which this property is located, and the critical link test, if properly applied, also would have failed.
5. Appeals of the Department of Transportation's final decisions relative to concurrency must be filed with the Director of that department or his designee. KCC 14.65.030. There was no appeal of the issuance of the September 14, 1995, certificate of transportation concurrency, nor of the replacement (renewal) certificate issued November 28, 1995. The issuance of the certificate of concurrency on September 14, 1995, and its replacement on November 28, 1995, enabled the owner of the subject property to file this application for preliminary plat approval on March 8, 1996.

The issuance of a certificate of concurrency by KCDOT normally creates a rebuttable presumption that the proposed development satisfies the concurrency requirements of the King County Integrated Transportation Program, KCC Chapter 14.65. I have not given that presumption to this proposal, due to my determination that the certificate was issued erroneously.

6. The determination of traffic concurrency required for preliminary plat approval is an analysis as to whether needed transportation facilities exist, or will be available within six years of issuance of development approval, to support the development at adopted standards. This includes consideration of public facilities not yet constructed, but for which financial commitments are in place. KCC 14.70.100.A.2.c. A financial commitment includes revenue designated in the most currently adopted Capital Improvement Program for transportation facilities. KCC 14.70.020.K.1. The current (1999) transportation CIP designates \$18,099,000 for full improvement of 228<sup>th</sup> Avenue Southeast/Northeast from the Issaquah-Pine Lake Road to Inglewood Hill Road. (No evidence has challenged the adequacy of that sum to accomplish the proposed improvements.)

7. State law governing the vesting of applications for preliminary plat approval requires that an application for preliminary approval be reviewed in accordance with the development regulations in effect at the time of application. When the subject application for preliminary approval was submitted to the King County Department of Development and Environmental Services, on March 8, 1996, the TAM standard then in effect for the area within which the subject property is located was 0.89. Several re-tests of traffic concurrency for this proposal were done by KCDOT during the pendency of this proceeding. These re-tests, using an updated traffic model and revised data, were intended to respond to criticisms of the earlier traffic model and data previously used, and to better reflect current traffic conditions. All the re-tests which included consideration of 228th Avenue as fully improved from the Issaquah-Pine Lake Road to Inglewood Hill Road (reflecting the current CIP), have shown the Cedar Cove proposal as passing, i.e., within the TAM standard of 0.89, and as not affected by critical links identified as of March 8, 1996.

One re-test, made in the course of this proceeding at the request of the Appellants, omits the full improvements to 228th Avenue Southeast/Northeast from the committed road network. That re-test indicates a TAM score in excess of 0.79, which was the pre-1996 threshold, and also indicates a likely failure of the critical link test. However, I find that re-test to be immaterial to the determination of concurrency required to be made in this proceeding.

8. The Appellant Heller presented evidence through his expert witness that contested the adequacy of the calibration and validation of the KCDOT traffic model used to test for concurrency. The evidence showed some illogical traffic counts on certain road segments. Appellants' evidence and argument also raised reasonable questions concerning some of the data used. Responsive evidence by KCDOT presented alternative standards for model validation and calibration, described changes made to address certain illogical results, and supported the data inputs to the current model.

Having considered all the evidence, I find it to be of generally equal weight with respect to the appropriateness of the standards used for validation and calibration, and more supportive than not of the data used in the current model. I therefore defer to KCDOT's position that the KCDOT current model is adequately calibrated and validated by standards generally applied in the traffic engineering profession. Furthermore, even if the existence of a "better model" or "better data" had been demonstrated, there was no substantial evidence that a better model or better data would result in a failure of the Cedar Cove proposal to pass either element of the transportation concurrency test under current standards and conditions, i.e., a TAM threshold of 0.89 and the 1999 CIP. Consequently, I find, based upon the preponderance of the evidence, that the proposal meets the concurrency requirements of the King County Code, using the standards in effect on the date of the application for preliminary plat approval and the most current King County traffic model, data, road improvement and financial commitment information available at the time of the hearing.

9. The Appellants presented speculation that once the incorporation of this area as the City of Sammamish becomes effective, the City may cause improvement of 228th Avenue to be delayed or even cancelled. There is no substantial evidence that the City of Sammamish would defer or cancel the road improvement in issue, or even the suggestion of reasons why it should want to do so. And even if there were, it would not be relevant to the determination which must be made today pursuant to the ordinances of King County. The King County ordinances which currently govern recognize that there is no certainty concerning the future, but nonetheless require that the

information to be used concerning future road construction is the six-year Capital Improvement Program of the current budget. KCC 14.70.020.C.

### **Eligibility for Subdivision; Authorized Density**

10. The subject property is approximately 19.5 acres. It constitutes the reserve area of the subdivision of Claremont, which was granted preliminary approval by King County in 1984. At the time of approval of Claremont, this property was zoned S-C (suburban cluster). The suburban cluster zone classification, which had been applied pursuant to policies of the East Sammamish Communities Plan, was a far-sighted approach by King County to allow some residential development of property to occur in areas likely to become urban, but which did not then have sufficient facilities and services to support full scale urban development. Using this approach, development of 15,000 square foot lots was permitted on one half of a site, while the remaining half would be reserved for future development, or could be set aside as permanent open space. Future development could not occur until the property was rezoned.

During the review of the proposed plat of Claremont, the King County Planning Division recommended that the wetland which extends onto the site (East Sammamish No. 18), and its upland buffer, be designated as permanent open space within a separate tract. The King County Conservation District made a similar recommendation, "[that]...the eastern approximately 20 acres of the site remain in its natural state due to its steep slopes and proximity to a surveyed wetland". Exhibit 47A, pages 2-3. Nonetheless, the Applicant had requested that the reserve tract be identified for future development, and the King County Building and Land Development Division recommended to the Hearing Examiner that the reserve area be designated only as a separate tract. (Recommended Condition No. 16). The intent of the Division, that future development be permitted, was clearly indicated by the Division's finding that, "In the future, a street will extend easterly from 233<sup>rd</sup> Place Southeast to serve the area reserved for future development". Exhibit 47A, page 5.

Future use of the reserve area was not contested at the public hearing, and Condition No. 16, as recommended by BALD, was adopted by the Hearing Examiner and by the King County Council. Ordinance 7007. The final plat of Claremont, as recorded in 1988, reflected the intent of King County and the Applicant by identifying the reserve tract as: "Parcel 'A' to remain in private ownership for future development". Further development of the site was precluded only while the zoning remained "S-C". The subject property has subsequently been re-classified, and is now zoned R-4. There is no legal prohibition upon development of the subject property arising from its establishment as a separate tract in the subdivision of Claremont.

11. The R-4 zone classification is "Urban Residential", with a base density of 4 dwelling units per acre. KCC 21A.04.010. Maximum density is computed by multiplying the base density by the site area. The entire site area may be used in the calculation, except for submerged lands. KCC 21A.12.070-.080. Minimum density is determined by multiplying the base density by the net buildable area of the site, and multiplying the result by .085, with adjustments permitted in the minimum density, at the option of the Applicant, for steeply sloping property. KCC 21A. 2.085-.087. The minimum lot size in any R zone is 2,500 square feet. KCC 21A.12.100.A. The proposed development of the subject 19.5 acres into 57 lots, with an average density of 2.97 dwelling units per acre, with lot sizes ranging from 5,200 square feet to 12,000 square feet, meets the maximum density and minimum lot size requirements of the R-4 zone. Density calculations will be reviewed again by DDES prior to final plat approval, to assure that

both minimum density requirements and maximum density limits are met, based upon application of Code requirements to a final survey of the site area, showing submerged lands (if any), and measuring slopes.

### **Traffic Circulation**

12. The proposed development, including the extension of a sub-collector street through the plat of Renaissance, will establish a connection from Southeast 24th Street to Southeast 8<sup>th</sup> Street. This will result in increased traffic on the existing 236<sup>th</sup> Avenue Southeast/235<sup>th</sup> Avenue Southeast, south of the plat entrance, which will become the southerly portion of the new connection. The volume of cut-through traffic likely to occur on this new route between Southeast 24<sup>th</sup> Street and Southeast 8<sup>th</sup> Street is a matter of dispute. The Applicant's planner and the King County Road Engineer do not expect the cut-through traffic to be significant. Residents of the area and the Appellant's traffic engineer believe it will be.

I find that the new connecting route, which will generally parallel 228th Avenue Southeast, and will lie approximately one-quarter mile to its east, will be a very attractive alternate route during peak hours, and is likely to be used by a substantial number of motorists seeking to avoid 228<sup>th</sup> Avenue Southeast between Southeast 8th Street and Southeast 24th Street, at least until such time as the full widening of 228<sup>th</sup> Avenue Southeast is completed between those intersections. During the period of construction of 228<sup>th</sup> Avenue Southeast, heavy use of the new route will be a daylong occurrence.

Although cut-through traffic will be a burden to residents of the area whose residences front on the affected roadways, only a few lots front on the existing 235th/236th Avenue Southeast to the south of the proposed entrance road to Cedar Cove. The benefit to the public of the new alternative route will be substantial, as was testified by King County's Traffic Engineer, notwithstanding that some existing residents do not want this route to be opened.

13. Should Cedar Cove be developed at the proposed density, a through road is necessary to comply with the adopted King County Road standards. The County Road Engineer has determined that no variance should be granted from that requirement. Responsibility for acting on applications for variances from the road standards is delegated to the King County Road Engineer and the Department of Transportation, not to the Hearing Examiner.

The County Road Engineer has also determined that Road B should be constructed as a "sub-collector", which is a local access street. The purpose of a sub-collector is to provide circulation within neighborhoods, typically connecting to neighborhood collectors. Sub-collectors can provide direct access to residences, and serve a maximum of 100 single family dwelling units. They are constructed in the urban area with a 30 mile-per-hour design speed, curb and gutter, and a 28-foot minimum pavement width in a 48-foot right-of-way. I would find from a preponderance of the evidence that the function most likely to be served by Road B will be that of a neighborhood collector, which connects two or more neighborhoods and typically connects to arterials or other neighborhood collectors. However, the responsibility for determining the classification of roads is assigned to the Road Engineer.

14. Giving substantial weight to the decision of the official responsible for making the SEPA Threshold Determination, acknowledging that diversion of some traffic from 228<sup>th</sup> Avenue Southeast is not an adverse impact, recognizing the prior authorization granted by King County for the construction of this road (see Finding No. 16, below), and considering the findings and opinions of the Department of Transportation and DDES that the road will not have probable



significance adverse impacts, I find that the establishment and construction of this connecting roadway will not have a probable significant adverse impact upon the environment.

### **Wetland and Wildlife Impacts**

15. The proposed development will impact the King County wetland designated "East Lake Sammamish #18", a Class 2 wetland, which runs north-south along the entire eastern property boundary, and continues off site to the north, south, and east. An unclassified stream flows north from this wetland to a Class 2 stream with salmonids. This stream eventually drains to Lake Sammamish. The on-site portion of the wetland is 4.45 acres; it requires a 50-foot buffer and a 15-foot building setback from the edge of the buffer, which are provided by the proposal.
16. The extension of "Road B" to the north, where it will intersect with Southeast 8<sup>th</sup> Street, requires crossing a portion of the East Lake Sammamish No. 18 wetland to the north. The area of wetland to be affected is approximately 1,200 square feet. Mitigation currently proposed would require replacing the area of affected wetland on a two-for-one basis, creating 2,400 square feet of wetland to mitigate the loss of 1,200 square feet. Existing functional values of the wetland are proposed to be matched or exceeded. A conceptual wetland mitigation plan has been submitted by the Applicant, and a final plan will be reviewed by DDES, and must be approved prior to approval of engineering plans for the plat.

King County conceptually approved the future crossing of this wetland when the plat of Renaissance was granted preliminary plat approval. Actual construction of the road was then made subject to the condition that it, "...shall adequately mitigate for any impacts to sensitive areas and wildlife, as required by King County." Exhibit No. 43, Report and Decision dated June 25, 1997, page 8, Condition 13.e. The proposed location for Road B will impact the smallest wetland area feasible. Those impacts will be mitigated in accordance with the King County Sensitive Areas Code (KCC 21A.24).

17. The subject property is within the designated urban growth area of King County. King County has decided to use its substantive SEPA authority to condition or deny new development proposals within the urban growth area, based upon adverse environmental impacts to environmentally sensitive areas, by applying the standards and regulations of KCC 21A.24, unless unusual circumstances exist related to a site or to a proposal, or there are environmental impacts not mitigated by the sensitive area regulations. The adverse impacts of this proposal on sensitive areas are those which are normally associated with land development; and the affected sensitive areas are typical of those which are protected by KCC 21A.24. Although the Appellants have presented evidence that East Lake Sammamish Wetland No. 18, and the stream to the north, could be adversely impacted by the proposed development, they have failed to show by a preponderance of the evidence that there is a probability of significant adverse impact to those sensitive areas, or that there are any unusual circumstances relating to this site, the proposed development, or the affected sensitive areas, which warrant special regulation.
18. Construction of the new road from Cedar Cove to Southeast 8th Street will bisect a 28 acre natural area with high wildlife value. It is clear from King County's own reviews that the habitat value of this 28 acres will be substantially diminished by the construction of the proposed road. In some situations, this would be a probable significant adverse impact. However, in this location and at this time, it is not. King County has determined that only limited protection will be given to wildlife in the urban area, where, "King County should strive to maintain a quality environment which includes fish and wildlife habitats that support the greatest diversity of native

species consistent with the density objectives." (This compares to, "The County should maximize wildlife diversity in the Rural Area.") King County Comprehensive Plan Policy NE-601.

Throughout the County, habitats for endangered, threatened or sensitive species identified by the federal or state government shall not be reduced and should be preserved. *Ibid.* NE-603. There is no evidence of any such species using the area in issue as habitat.

19. The action which had the most significant impact upon wildlife habitat in the affected area was previously taken when this road was conceptually approved, subject to certain conditions. That action was part of the decision previously discussed (see Findings 14 and 16, above), which gave preliminary approval to the plat of Renaissance. That decision was made after consideration of various access issues affecting that development and the surrounding area, and specifically addressed alternatives for preserving wildlife habitat. Given the topographic limitations of the site, the roadway construction project is proposed to occur through the area where there will be the least impact upon the wetland. Implementation will be subject to approval of a mitigation plan, which shall consider, among other things, buffer enhancement. In short, the least possible impact on wildlife habitat will occur, given the fact of any road construction through this area.

### **Surface Water**

20. With respect to surface water drainage from the subject property, the evidence shows that there are two unusual circumstances. The first relates to the special need to protect the water quality of Lake Sammamish. This was addressed by DDES in the MDNS, and is not an issue here. The second is that the area to the south, specifically including portions of 235/236<sup>th</sup> Avenue Southeast, are subject to periodic flooding which currently interferes with access to the residences served by that street. A variance from the requirements of the surface water drainage manual has been granted by King County, which authorizes diversion of run-off from the proposed development away from the area experiencing flooding. The Examiner has previously ruled that issuance of that variance cannot be contested in this proceeding.

The Appellants have presented evidence which calls into question the sufficiency of the downstream drainage analysis thus far provided by the Applicant, and the claimed avoidance of surface water runoff impacts to the south. In response to that evidence, DDES has proposed significantly more stringent drainage controls than it had previously recommended. These are reflected in the conditions of final plat approval in this decision.

Additional drainage analysis and DDES review of that analysis will be required. The evidence does not show a probability that the proposed development, with the implementation of the required conditions, will have more than a moderate impact upon the existing flooding problem to the south.

### **CONCLUSIONS:**

1. The Hearing Examiner does not have the jurisdiction or authority to deny or remand this application due to the erroneous issuance of a certificate of transportation concurrency by KCDOT to the Applicant in 1995.
2. The determination of traffic concurrency to be made in this proceeding requires, and is limited

to, consideration of present roads and road improvements which are financially committed for completion within six years of preliminary plat approval. The standards for concurrency to be used are those in effect on the date the complete application for preliminary plat approval was filed.

3. The subject property is eligible to be subdivided, having been established as a reserve tract for future development by the plat of Claremont.
4. The proposed density of 57 lots is within the maximum density authorized by the current R-4 zone classification, and all lots proposed exceed the minimum lot size of the R-4 zone.
5. The proposed development will not have a probable significant adverse effect upon traffic, pedestrian safety, land use, surface water, wetlands, wildlife, views, government facilities or services, light, aesthetics, or any other element of the environment alleged by the Appellants. This conclusion is predicated upon actions previously taken by King County, particularly including adoption of the current Comprehensive Plan, the zoning classification of the subject property, and the authorization for an extension of a road from the subject property through the plat of Renaissance, to Southeast 8th Street. This conclusion is also predicated upon compliance with all applicable ordinances and regulations of King County, the condition of the mitigated determination of environmental nonsignificance, and the conditions of final plat approval set forth below.
6. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, East Sammamish Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
7. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
8. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
9. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.
10. The appeals of the SEPA Threshold Determination of Environmental Non-significance (Mitigated) by Vic Heller, Craig N. Dickison, Craig W. Reynolds and Scott Hamilton should be denied.
11. The preliminary plat of Cedar Cove, as revised February 19, 1998, should be approved, subject to the conditions for final plat approval set forth in the decision below.
12. Any conclusions set forth in the preceding "Opinion" and "Findings" are included in these conclusions, as if fully set forth.

## DECISION:

- A. The appeals by Vic Heller, Craig N. Dickison, Craig W. Reynolds, and Scott Hamilton of the SEPA Threshold Determination of Environmental Non-significance (Mitigated), issued July 3, 1998, are denied.
- B. The proposed plat of Cedar cove, as revised and received February 19, 1998, is granted preliminary approval, subject to the following conditions of final plat approval:
  - 1. Compliance with all platting provisions of Title 19 of the King County Code.
  - 2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
  - 3. The plat shall comply with the base density (and minimum density) requirements of the R4 zone classification. All lots shall meet the minimum dimensional requirements of the R4 zone classification or shall be as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. Revisions to reflect and accommodate any change in the functional classification of roads within the plat shall be considered minor.
  - 4. The Applicant must obtain final approval from the King County Health Department.
  - 5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS), subject to variances approved by the King County Road Engineer.
  - 6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
  - 7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats.
    - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
    - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
    - c. The following note shall be shown on the final recorded plat:

" All building downspouts, footing drains, and drains from all impervious

surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #\_\_\_\_\_ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

8. A drainage diversion variance (L98VA0024) was submitted and approved, to allow diversion of southerly site drainage north. All conditions of approval for this variance shall be met upon submittal of the engineering plans. In addition the Level 3 Analysis and wetland modeling shall be refined at engineering plan submittal to show that no aggravation of the flooding problems at 235th Avenue Southeast and Southeast 19th Street will occur up to the 100-year, 24-hour post-development storm. More restrictive release rates, or discharge further to the north, may be required to assure that no aggravation occurs.
9. Stormwater detention for the on-site and off-site improvements shall be designed using the KCRTS (King County Runoff Time Series), minimum Level 1 flow control methodology with a 20% volumetric safety factor.
10. The existing off-site stormwater entering the site from the Claremont subdivision through flow spreaders shall be conveyed across the site to Wetland ELS 18. The existing off-site flows shall be conveyed to enter the wetland at approximately the same location as prior to development of Cedar Cove, unless otherwise required or approved by DDES. The existing easements shall be abandoned and replacement easements for the above conveyance lines shall be shown on the engineering plan and the final recorded plat.
11. The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards, provided that the functional classifications set forth, particularly including the classification of Roads A and B on and off the site, may be further reviewed and modified by the King County Road Engineer, and variances from the Road Standards may be granted.
  - a. Roads A and B (main access road) shall be improved to the urban sub-collector road standard.
  - b. Roads C, D, E, F, and G shall be improved to the urban minor access road standard.
  - c. OFFSITE ROAD B: Off-site Road B shall be constructed full width from the north boundary of the site to the intersection with Southeast 8th Street. The road shall be constructed to the urban sub-collector standard. R/W is to be dedicated per the conditions of approval for the plat of Renaissance (L96P0025), see Condition 13.e of the Renaissance Hearing Examiner Report dated June 25, 1997.
  - d. FRONTAGE: The frontage of the property along 235th Avenue Southeast (easterly side only) shall be improved to the urban neighborhood collector

standard, unless a variance is approved.

- e. Tract D shall be improved as a joint use driveway with 18 feet minimum paved surface per section 3.01 3(3) of the King County Road Standards.
  - f. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures stated in KCRS 1.08.
- 12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
  - 13. the Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation payment System ("MPS"), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
  - 14. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
  - 15. There shall be no direct vehicular access to or from 235th Avenue Southeast from those lots which abut it, and there shall be no direct vehicle access to or from Roads "A" and "B" from Lot 1 and all other lots which have reasonable alternative access. Notes to this effect shall appear on the engineering plans and final plat.
  - 16. To the extent feasible, eyebrows, joint driveways (tracts), and other devices shall be used to limit the number of direct vehicle entrances onto Roads "A" and "B". Planter islands shall be provided within all "eyebrows".
  - 17. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners' association. This shall be stated on the face of the final plat.
  - 18. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND  
SENSITIVE AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers

of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law

19. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval.
20. Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the Applicant.
  - a. A bulldozer trail was cleared through the wetland buffer in 1996. This area of buffer clearing shall be restored to its previously forested plant community. A restoration plan for this area shall be submitted along with the engineering plans.
  - b. The road extending north to Southeast 8th Street will cross a portion of a Class 2 wetland. A mitigation plan to compensate for the wetland loss due to road construction shall be submitted along with the engineering plans. Mitigation measures should consider enhancement of wetland or buffer, including underplanting the deciduous forested portions of the buffer with coniferous trees.
  - c. The restoration and mitigation plans shall include proposed final grades and hydrology, a detailed planting plan showing plant species, sizes and locations, and construction and monitoring notes. A financial guarantee will be required to assure success of the mitigation.
  - d. The project shall not significantly alter the hydrology of East Lake Sammamish Wetland #18. Calculations utilizing KCRTS or other comparable methodology for modeling wetland hydrology, and measurements and calculations for wetland water level fluctuation, shall be provided with the engineering plans to show that any changes to wetland hydrology shall be negligible. DDES may require visions to the engineering plans and/or the final plat if necessary to maintain the wetland hydrology.
21. The Applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in KCC 21A.06.415). The delineation of such



areas shall be approved by a DDES geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.

22. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
  - a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
  - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
  - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
23. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).
24. The following have been established by SEPA as necessary requirements to mitigate the potential adverse environmental impacts of this development. The Applicants shall demonstrate compliance with these items prior to final approval.

A portion of the site is located within the East Lake Sammamish Basin. Runoff from impervious surfaces subject to vehicle use or storage and/or transfer of chemicals, petroleum products or wastes shall be treated to remove 50% of the annual average total phosphorus concentration before discharge to Lake Sammamish or its tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resource Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option A: A large wetpond having a dead storage volume of at least 4.5 times the runoff from the mean annual storm. The mean annual storm is determined by dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from about 0.47 to 0.56 inches.

Option B: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS Time Series. If a detention facility does not precede the sand filter, a pre-settling pond or vault must be provided prior to the sand filter. The pre-settling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option C: A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility, or 90% of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined by one of the following:

- The flow generated by 64% of the 2-year 24-hour precipitation (SBUH model),
- The flow generated by 60% of the developed 2-year peak flow rate (KCRTS model), or
- The flow associated with 95% of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing).

25. All references in this decision to agencies and officials of King County shall be construed as references to agencies and officials exercising comparable roles and performing similar duties for any successor government with jurisdiction of this property.

ORDERED this 25th day of May, 1999.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 25th day of May, 1999, by first class or inter-office mail to the following parties and interested persons:

Kazoko & Bill Acar  
Debra Anderson  
Amanda Azous  
Jack & Jennifer Bauer  
Joseph Beer  
Robert Brady  
Les Brisbois  
Joanna Buehler  
Anita Burkholder  
May/Terry Burns  
Jon & Donna Carlson  
Kyle & Evelyn Coffey  
Mitchell Cohen  
Richard A. Cook  
Jeffrey Demers  
Craig Dickison  
Rasool Doneshvar  
Jon Dueker  
Vali Eberhardt  
Kathy Edens

Becky Edwards  
James B. Edwards  
Peter J. Eglick  
Evelyn Ferrier  
Sharon Freechtle  
Lee & Mary Geil  
John & Debra Gibbons  
Rick Gibbons  
Andrea Grad  
Judith Hamilton  
Scott Hamilton  
Tom & Jeanne Harman  
Nancy Herrig  
Lori Hill  
Mark Hinthorne  
Alan Huibregtse  
James & Therese Hutchins  
Robert Iness  
Cris Irons  
David Irons

John L Scott Land Department  
 Robert Johns  
 James Jordan  
 John & Cathy Kaschko  
 Bob & Shannon Keller  
 Jane Kiker  
 King Conservation District  
 Datia Kurkij  
 De-En Lang  
 John & Claire Lein  
 Dave Lerner  
 Paula Lillevand  
 Arlene & Todd Lovell  
 Andrea & Paul Martin  
 Jon & Kristen Mathison  
 Mike & Jane McCalmont  
 Greg McCormick  
 Gail Miller  
 Dave & Leslie Miniken  
 Robert A. Montgomery  
 Brian Moore  
 Ben Morgan  
 Ben Muzzey  
 Robert Nason  
 Randy Nevin  
 Andy Olney  
 Dan & Audrey Oxley  
 Pacific Motion Group  
 Dorothy & Ed Parker  
 Tom Perricone  
 Raymond & Joan Petit  
 Doug & Andrea Phillips  
 Charlene & Larry Plympton  
 Ralph Pope  
 Nick & Suzy Repanich  
 Craig Reynolds  
 Mara Rigel  
 C. Lawrence Roberts  
 Helen & Jesse Rondestvedt

Dwight & Mary Roof  
 Jill Routt  
 Robert & Margaret Rowe  
 Carol Sarna  
 Alfred & Vivian Sauerbrey  
 Joe Savage  
 Deb Schaefer  
 Seattle-King County Health Department  
 Penny Short  
 Patty & Greg Smith  
 Mary & Tom Spencer  
 Ilene Stahl  
 Brian & Sharon Steinbis  
 Kathleen Steoger  
 Wayne Stewart  
 Eric Tingstad  
 D.L. Vittetoe  
 Janet Wall & Ruth Morgan  
 Victoria Ward  
 Terri M Warner  
 Clinton Webb  
 Cory & Mary Lou Wolfe  
 David B. Zielinski  
  
 Steve Bottheim  
 Laura Casey  
 Fereshteh Dehkordi  
 Dick Etherington  
 Dan Jewett  
 Michaelene Manion  
 Dennis McMahon  
 Steven C. Townsend  
 Bruce Whittaker

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before June 8, 1999**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before June 15, 1999**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE NOVEMBER 30, DECEMBER 1, 2, 1998, February 8, 9, MARCH 16, 25, AND APRIL 22, 1999, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0007 - CEDAR COVE.

James N. O'Connor was the Hearing Examiner in this matter. Participating at the hearing were Fereshteh Dehkordi, Greg Borba, Dennis McMahon, Dick Etherington, David Mark, Tom Beavers, Bruce Whittaker, Laura Casey, and Aileen McManus, representing the County; Bob Johns, Craig Dickison, Peter J. Eglick, Jane S. Kiker, Scott Hamilton, Joseph Savage, Rasool Doneshvar, Craig Reynolds, James B. Edwards, Jon K. Dueker, Amanda Azous, Robert Montgomery, David B. Zielinski, Keith Leytham and Dan Jewett.

The following exhibits were offered and entered into the hearing record **November 30, 1998:**

- Exhibit No. 1 Department of Development and Environmental Services File No. L96P0007
- Exhibit No. 2 Department of Development and Environmental Services SEPA File No. L96P0007
- Exhibit No. 3 Department of Development and Environmental Services preliminary report dated September 28, 1998
- Exhibit No. 4 Application dated March 8, 1996
- Exhibit No. 5 Environmental checklist dated January 20, 1996
- Exhibit No. 6 Mitigated Declaration of Nonsignificance (MDNS) dated May 26, 1998
- Exhibit No. 7 Withdrawal and re-issuance of MDNS dated July 3, 1998
- Exhibit No. 8 Letter of Appeal from Scott Hamilton dated June 1, 1998
- Exhibit No. 9 Letter of Appeal from Helsell Fetterman on behalf of Vic Heller dated July 20, 1998
- Exhibit No. 10 Letter of Appeal from Craig Reynolds dated July 20, 1998
- Exhibit No. 11 Letter from Craig Dickison dated June 10, 1998
- Exhibit No. 12 Affidavit of Posting indicating March 21, 1996, as date of posting and March 27, 1996, as the date the affidavit was received by the Department of Development of Development and Environmental Services
- Exhibit No. 13 Revised site plan dated February 19, 1998
- Exhibit No. 14 Kroll land use map pages 958W & 958E
- Exhibit No. 15 Assessors maps NW ¼ 3-24-6
- Exhibit No. 16 GIS map
- Exhibit No. 17 Recorded map of Plat of Claremont (3 pages)
- Exhibit No. 18 Geotechnical report prepared by Associated Earth Sciences, Inc. dated July 29, 1996
- Exhibit No. 19 Cedar Cove Wildlife Habitat Assessment by Sheldon & Associates, Inc. dated August 4, 1997
- Exhibit No. 20 Wetland Delineation Report by Sheldon & Associates, Inc. dated November 16, 1995
- Exhibit No. 21 Conceptual Wetland Mitigation plan by Terra Associates dated August 4, 1997
- Exhibit No. 22 Level One Offsite Analysis by Rasool Daneshvar received August 27, 1996
- Exhibit No. 23 Hydraulic Study by Montgomery Water Group, Inc. dated July 27, 1998
- Exhibit No. 24 Level III Analysis by Montgomery Water Group, Inc. dated February 16, 1998
- Exhibit No. 25 Letter from Northwest Hydraulic Consultants, Inc. dated May 28, 1998

- Exhibit No. 26 Cedar Cove Traffic Impact Study by Earth Tech, Inc. dated August 14, 1996
- Exhibit No. 27 Cedar Cove Traffic Impact Study by Earth Tech, Inc. dated September 26, 1996
- Exhibit No. 28 Cedar Cove Traffic Impact Study by Earth Tech, Inc. dated November 4, 1996
- Exhibit No. 29 Cedar Cove Traffic Impact Study by Earth Tech, Inc. dated May 4, 1998
- Exhibit No. 30 Cedar Cove Traffic Impact Study by Earth Tech, Inc. dated May 13, 1998
- Exhibit No. 31 Letter from Terrence Burns dated October 29, 1996
- Exhibit No. 32 Letter from Craig Reynolds dated March 28, 1996
- Exhibit No. 33 Letter from Vic Heller dated September 18, 1997
- Exhibit No. 34 Letter from Lawrence Roberts dated May 27, 1997
- Exhibit No. 35 Letter from Charlene Plympton received September 26, 1998
- Exhibit No. 36 Petition letter dated November 1, 1998
- Exhibit No. 37 Cumulative Pipeline Projects map
- Exhibit No. 38 Resume of James B. Edwards
- Exhibit No. 39 Review of Cedar Cove Mitigated Determination of Non-Significance for Plat of Cedar Cove (E96E0058) Traffic Impact Analysis – November 19, 1998
- Exhibit No. 40 Memorandum dated March 14, 1997, from Milton Lin (the Transpo Group) to Paulette Norman (KCDOT)
- Exhibit No. 41 Department of Development and Environmental Services Plat Screening Transmittal for Preliminary Plat of Cedar Cove – LUSD File No. L96P0007;  
Date of Information Request: October 8, 1996  
Deadline for Submittal of Information: November 18, 1996

The following exhibits were offered and entered into the hearing record **December 1, 1998:**

- Exhibit No. 42 Copies of E-mails between Tom Beavers, Fereshteh Dehkordi and Steve Boyce dated October 15, 1998, April 23, 1998, May 11, 1998, and May 15, 1998
- Exhibit No. 43 Department of Development and Environmental Services staff report for June 5, 1998, public hearing on proposed plat of Renaissance (L96P0025) and the Hearing Examiner's Report and Decision dated June 25, 1997
- Exhibit No. 44 Letter dated May 15, 1997, from King County Road Services to Rasool Daneshvar regarding Request for Variance for Plat of Cedar Code – L96VA0114 – with attached copy of staff's analysis, findings and conclusions
- Exhibit No. 45 Resume of Jon K. Dueker
- Exhibit No. 46 Letter dated September 18, 1998, from Jon Dueker to Jane Kiker (Helsell, Fetterman) containing Mr. Dueker's wildlife analysis
- Exhibit No. 47 Ordinance 7007; October 26, 1984, memorandum from Robert E. Beaty to Parties of Record; and, Amended Report and Recommendation to the King County Council dated October 26, 1984, for proposed plat of Claremont (BALD File No. 884-3)
- Exhibit No. 48 Claremont Storm Drainage Calculations
- Exhibit No. 49 Resume of Amanda Azous
- Exhibit No. 50 Letter dated November 18, 1998, from Amanda Azous to Jane Kiker with attachments by Sarah Spear Cook (excluding last 2 paragraphs on pp 2-3 of Cook memo) and November 28, 1998, addendum to November 18, 1998, report by Amanda Azous
- Exhibit No. 51 Pages 3-3 and 3-4 from 1998 Surface Water Design Manual
- Exhibit No. 52 Resume of Robert Montgomery

The following exhibits were offered and entered into the hearing record **December 2, 1998:**

- Exhibit No. 53 Letter dated March 11, 1998, from KM Leytham (Northwest Hydraulic Consultants, Inc.) to Vic Heller

- Exhibit No. 54 Letter dated May 14, 1998, from Robert A. Montgomery (Montgomery Water Group) to Rasool Doneshvar
- Exhibit No. 55 Letter dated May 28, 1998, from KM Leytham to Bruce Whittaker (DDES)
- Exhibit No. 56 Letter dated July 27, 1998, from Robert Montgomery to Rasool Doneshvar
- Exhibit No. 57 Excerpt from Master Drainage Planning for Large Site Developments (Process & Requirement Guidelines) – May 1995
- Exhibit No. 58 DDES document entitled “Wetland Hydrology Management Guidelines”
- Exhibit No. 59 Chapter 14: Wetlands and Stormwater Management Guidelines by Richard R. Horner, Amanda A. Azous, Klaus D. Richter, Sarah S. Cooke, Lorin E. Reinelt and Kern Ewing (1997) of Puget Sound Wetlands and Stormwater management Research Program
- Exhibit No. 60 Beaver Lake area circulation map
- Exhibit No. 61 First page of Ordinance 13340 and page one of its Attachment 4

The following exhibits were offered and entered into the hearing record **December 14, 1998**:

- Exhibit No. 62 Revised preliminary plat map of Claremont dated July 10, 1984
- Exhibit No. 63 Cassette recording of public hearing on preliminary plat application of Claremont held on August 16, 1984
- Exhibit No. 64 Revised conditions to staff report dated December 11, 1998, submitted by staff (Bruce Whittaker)
- Exhibit No. 65 Resume’ of Malcolm Leytham
- Exhibit No. 66 Wetland stage hydrograph for water year 1990.

The following exhibits were offered and entered into the hearing record **February 8, 1999**:

- Exhibit No. 67 Letter dated December 7, 1998, from Amanda Azous to Peter Eglick re Water level fluctuation example
- Exhibit No. 68 Sensitive Area Mitigation Guidelines - admitted for limited purpose
- Exhibit No. 69 Letter dated February 4, 1999, from Scott Hamilton to Hearing Examiner re Motion for Sanctions
- Exhibit No. 70 King County Department of Transportation Description of the Base Year Traffic Model R95 dated January 1999
- Exhibit No. 71 King County Department of Transportation Description of Cedar Cove Concurrency Retest Using Traffic Model R96A dated January 1999
- Exhibit No. 72 Cedar Cove Retest R95B with 1995 CIP – document ID No. 5b1x
- Exhibit No. 73 Cedar Cove Retest R95B with 1995 CIP and with full improvement on 228<sup>th</sup> SE/NE – document ID No. 5b1y
- Exhibit No. 74 Expert Witness Report on 1995 KC-DOT Concurrency Model for Cedar Cove Hearing dated February 3, 1999 and prepared by Joseph Savage
- Exhibit No. 75 Comparison of error calculation methods
- Exhibit No. 76 Letter dated December \_\_, 1998 (undated) from Dick Etherington to James N. O’Connor (WITHDRAWN)

The following exhibits were offered and entered into the hearing record **February 9, 1999**:

- Exhibit No. 77 FAX transmittal cover sheet from Dan Jewett (KC Roads) to Jane Kiker with attached page describing phase change in 228<sup>th</sup> Avenue NE/SE PH1A project
- Exhibit No. 78 Jewett sketch illustrating 228<sup>th</sup> project
- Exhibit No. 79 Current Phase 1A prime schedule for completion of design and start of construction
- Exhibit No. 80 Urban Proposed Project Design Review progress report on 228<sup>th</sup> project

The following exhibits were offered and entered into the hearing record **March 16, 1999**:

- Exhibit No. 81 Expert Witness Report dated 3/3/99, prepared by Joe Savage
- Exhibit No. 82 King County's Concurrency Model
- Exhibit No. 83 Graph, "How concurrency operates"
- Exhibit No. 84 1995 Concurrency Model Re-calibration and Re-test prepared and submitted by Joe Savage
- Exhibit No. 85 Model Validation/TMIP document (via Internet)
- Exhibit No. 86 Resume of Joe Savage
- Exhibit No. 87 Written testimony, dated November 19, 1998, prepared by Joe Savage
- Exhibit No. 88
  - A Memorandum dated March 16, 1999, from Fereshteh Dehkordi to James O'Connor
  - B Memorandum dated March 15, 1999, from Laura Casey to Fereshteh Dehkordi regarding Cedar Cove final conditions recommendation (NOT ADMITTED)
- Exhibit No. 89 Original application and concurrency test for English (Cedar) Cove
- Exhibit No. 90 North-South and East-West Screenlines
- Exhibit No. 91 Savage's sketch (traffic volumes)
- Exhibit No. 92 Savage's sketch (zones 405 and 407)
- Exhibit No. 93 Fax transmitted February 11, 1999, from Dick Etherington to Joe Savage with attached e-mail (dated February 5, 1999) from Chandler Felt to David Mark
- Exhibit No. 94 Letter (with attached comments on KCDOT'S "Prospectus for Traffic Model Update") dated January 19, 1999, from Jane Kiker to Dick Etherington
- Exhibit No. 95 "Calibration and Adjustment of System Planning Models" (dated December 1990)

The following exhibits were offered and entered into the hearing record **March 25, 1999**:

- Exhibit No. 96 Greens at Beaver Crest Revised Traffic Analysis
- Exhibit No. 97 Excerpts from TMIP (Travel Model Improvement Program) website: TMIP 7.0 Assessment Procedures
- Exhibit No. 98 1993 Land Use Statistical Chart titled 'tgen from 90\_93pac', undated
- Exhibit No. 99 Fax cover sheet with attached comments on Prospectus for Traffic Model Update from Joe Savage to Dick Etherington with January 19, 1999, indicated as date of transmission
- Exhibit No.100 Trip Generation 1995 LU statistical chart
- Exhibit No.101 Comparison of 1993 & 1995 land use data for selected Plateau zones
- Exhibit No.102 University Employment comparison chart, using 1993 & 1995 data
- Exhibit No.103 TAM figure calculations, drawn by Savage on butcher paper
- Exhibit No.104 Copy of e-mail from Chandler Felt to David Marks entitled Assessor Data Review
- Exhibit No.105 Scenario – North Sammamish Plateau lots (of zones, connectors & various links)
- Exhibit No.106 R95 Count Locations map
- Exhibit No.107 Report on error in KJS estimated counts prepared by KCDOT (with Base Network map cover sheet)
- Exhibit No.108 1996-1999 CIPs for 228<sup>th</sup> Avenue Southeast/Northeast
- Exhibit No.109 1994-1995 CIPs for 228<sup>th</sup> Avenue Southeast/Northeast
- Exhibit No.110 Excerpt from National Cooperative Highway Research Program Report #255
- Exhibit No.111 Comparison of Screenline Validation Guidelines
- Exhibit No.112 Model Validation & Reasonableness Checking Manual - February 1997

The following exhibits were offered and entered into the hearing record **April 16, 1999:**

Exhibit No. 113 Letter dated February 12, 1999, from David B. Zielinski (Transportation Planning) to Rasool Doneshvar

Exhibit No. 114 Letter dated February 12, 1999, from Rasool Doneshvar to Bob John

The following exhibits were offered and entered into the hearing record **April 22, 1999:**

Exhibit No. 115 Declaration of Jane S. Kiker

Exhibit No. 116 Fax received April 21, 1999, addressed to James O'Connor from Scott Hamilton

The following exhibits were entered into the record administratively pursuant to the Examiner's April 22, 1999, Order:

Exhibit No. 117 Letter dated April 28, 1999, from Peter Eglick (Attorney for Appellants) to Hearing Examiner

Exhibit No. 118 Letter dated April 29, 1999, from Roy Francis (Manager, KC Transportation Planning Division) to Hearing Examiner

Exhibit No. 119 Letter dated April 29, 1999, from Peter Eglick (Attorney for Appellants) to Hearing Examiner